

Local Form 4A

December 2017

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:

PATRICK SAMUEL MONTOYA,

TIN: XXX-XX-8230

Debtor(s)

Case No. 18-31312

Chapter 13

AMENDMENT TO CHAPTER 13 PLAN
AND NOTICE OF OPPORTUNITY FOR HEARING ON CONFIRMATION OF THE PLAN
FOR CASES FILED ON OR AFTER DECEMBER 1, 2017

Check if applicable to this plan amendment:

1.1	A limit on the amount of a secured claim that may result in a partial payment or no payment at all to the secured creditor (Part 3.2)	<input checked="" type="checkbox"/> Included	<input type="checkbox"/> Not Included
1.2	Avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest (Part 3.4)	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not Included
1.3	Request for termination of the 11 U.S.C. § 362 stay as to surrendered collateral (Part 3.5)	<input checked="" type="checkbox"/> Included	<input type="checkbox"/> Not Included
1.4	Request for assumption of executory contracts and/or unexpired leases (Part 6)	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not Included
1.5	Nonstandard provisions	<input checked="" type="checkbox"/> Included	<input type="checkbox"/> Not Included

The Chapter 13 Plan, including certain motions and other provisions, is hereby amended as follows:

**Part
2:**

Plan Payments and Length of Plan

2.1 Debtor will make regular payments to the Chapter 13 Trustee as follows:

\$ _____ per _____ for _____ months

\$ _____ per _____ for _____ months

Or

\$ 775.00 per month for a 1% percentage composition to be paid to general unsecured creditors.

**Part
3:**

Treatment of Secured Claims

3.1 Maintenance of payments and cure of default, if any. *Conduit mortgage payments, if any, are included here.*

Check one.

- ☐ **None.** *If "None" is checked, the rest of Part 3.1 need not be completed or reproduced.*
- ☒ The Debtor will maintain the current contractual installment payments on the secured claims listed below, with any changes required by the applicable contract and noticed in conformity with any applicable rules. These payments will be disbursed by the Chapter 13 Trustee, directly by the Debtor, or as otherwise specified below. Any existing arrearage on a listed claim will be paid in full through disbursements by the Chapter 13 Trustee, with interest, if any, at the rate stated. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the Court, all payments under this paragraph as to that collateral will cease, and all secured claims based on that collateral will no longer be treated by the Plan.

Name of creditor	Collateral	Value of Collateral	Current installment payment (including escrow)	Amount of arrearage (if any)	Interest rate on arrearage (if applicable)
NC Dept. of Revenue	Misc. personal property (\$6,395)	\$6,395	N/A	\$56,188.09	5.00%
			Disbursed by: <input checked="" type="checkbox"/> Trustee <input type="checkbox"/> Debtor <input type="checkbox"/> Other		

Please explain any disbursements to be made by someone other than the Chapter 13 Trustee or the Debtor:

3.5 Surrender of collateral.

Check one.

- ☐ **None.** *If "None" is checked, the rest of Part 3.5 need not be completed or reproduced.*

The remainder of this paragraph will be effective only if the applicable box in Part 1 of this Plan is checked.

- X The Debtor elects to surrender to each creditor listed below the collateral that secures the creditor's claim. The Debtor requests that, upon confirmation of this Plan, the stay under 11 U.S.C. § 362(a) be terminated as to the collateral only and that the stay under 11 U.S.C. § 1301 be terminated in all respects. **(Notice to the Co-Debtor is required to terminate the § 1301 co-debtor stay.)** Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 of this Plan below.

Name of creditor	Collateral	Claim Amount
Ocwen Loan Servicing, LLC	17011 Hedgerow Park Rd, Charlotte, NC 28277	\$331,208.76
Ardrey Owners Association, Inc.	17011 Hedgerow Park Rd, Charlotte, NC 28277	\$6,315.04
Wells Fargo Home Mortgage (servicer: Real Time Solutions, LLC)	17011 Hedgerow Park Rd, Charlotte, NC 28277	\$153,556.54
NC Dept of Revenue	17011 Hedgerow Park Rd, Charlotte, NC 28277	\$56,188.09
<i>Insert additional claims as needed.</i>		

4.4 Priority claims other than attorney's fees and those treated in Part 4.5.

Check all that apply.

- ☐ **None.** *If "None" is checked, the rest of Part 4.4 need not be completed or reproduced.*
- X Section 507(a) priority claims other than domestic support obligations (*generally taxes and other government obligations*).

Name of creditor	Claim Amount
Internal Revenue Service	\$10,454.00
NC Dept of Revenue	\$1,571.00

8.1.2 Other Non-Standard Provisions, including Special Terms:

NC Department of Revenue: Creditor filed a tax lien on 5/27/11 for 2007 and 2008 taxes totalling \$57,445.98, and another tax lien on 8/17/17 for 2012 taxes of \$1,726.83. Creditor has filed a Proof of Claim asserting a secured claim in the amount of \$44,843.70. However, Debtor proposes to surrender house at 17011 Hedgerow Park Rd, Charlotte, NC 28277, and there is only \$6,395.00 in equity in personal property to secure claim. Debtor proposes to pay Creditor this amount as a secured claim at its contract rate of interest of 5%, and the balance of the claim as unsecured through the plan.

TAKE NOTICE: Your rights may be affected. You should read this amendment to the Chapter 13 Plan carefully and discuss them with your attorney, if you have one, in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to confirm the Debtor's proposed Plan as amended, or if you want the Court to consider your views on these matters, then you and/or your attorney must file a written objection to confirmation and request for hearing on confirmation at one of the following addresses:

Cases filed in the Charlotte or Shelby Divisions:

Physical & Mailing Address: Clerk, U.S. Bankruptcy Court, 401 West Trade Street, Room 111, Charlotte, N.C. 28202

Cases filed in the Statesville Division:

Physical Address: Clerk, U.S. Bankruptcy Court, 200 West Broad Street, Room 301, Statesville, N.C. 28677

Mailing Address: Clerk, U.S. Bankruptcy Court, 401 West Trade Street, Room 111, Charlotte, N.C. 28202

Cases filed in the Asheville or Bryson City Divisions:

Physical & Mailing Address: Clerk, U.S. Bankruptcy Court, 100 Otis Street, Room 112, Asheville, N.C. 28801-2611

Your objection to confirmation and request for hearing must include the specific reasons for your objection and must be filed with the Court no later than 21 days following the conclusion of the § 341 meeting of creditors, or within 21 days of service of the amendment, whichever is later. If you mail your objection to confirmation to the Court for filing, you must mail it early enough so that the Court will receive it on or before the deadline stated above. You must also serve a copy of your objection to confirmation on the Debtor at the address listed in the notice of the meeting of creditors. The Debtor's attorney and the Chapter 13 Trustee will be served electronically. If any objections to confirmation are filed with the Court, the objecting party will provide written notice of the date, time, and location of the hearing. **No hearing will be held unless an objection to confirmation is filed.**

If you or your attorney do not take these steps, the Court may decide that you do not oppose the proposed plan of the Debtor as amended and may enter an order confirming the amended plan and granting the motions. **Any creditor's failure to object to confirmation of the proposed plan as amended shall constitute the creditor's acceptance of the treatment of its claim as proposed pursuant to 11 U.S.C. § 1325(a)(5)(A).**

I declare under penalty of perjury that the information provided in this Amendment to Chapter 13 Plan is true and correct as to all matters set forth herein.

Dated: 12/18/18

/s/ Patrick Samuel Montoya
Debtor's Signature

Dated: _____

Debtor's Signature

I hereby certify that I have reviewed this document with the Debtor and that the Debtor has received a copy of this document.

Dated: 12/18/18

/s/ Vera S. Goudes
Attorney for the Debtor